

§ 549.12

for the development and implementation of this program.

(b) Each HSA shall designate a member of the clinical health care staff, for example, a physician, dentist, physician assistant, nurse practitioner, or nurse, as the Coordinator of Infectious Diseases (CID).

§ 549.12 Reporting.

The HSA shall ensure that each institution's respective state health department is informed of all cases of reportable infectious diseases. See § 549.17 for reporting requirements of chronic infectious diseases and for Freedom of Information Act requests.

§ 549.13 Medical testing.

(a) *Bloodborne pathogens.* Following an incident in which a staff member or an inmate may have been exposed to bloodborne pathogens, written, informed consent shall be obtained prior to acquiring or processing the source individual's blood or other biological specimen for the purpose of determining an actual exposure to a bloodborne pathogen. In the context of exposure incidents, no inmate shall be tested forcibly or involuntarily, unless such testing is ordered by a court with proper jurisdiction. Inmates may be subjected to disciplinary action for assaultive behavior related to an exposure incident.

(b) *HIV testing.* HIV testing programs are mandatory and include a yearly random sample, yearly new commitment sample, new commitment re-test sample, pre-release testing, and clinically indicated testing. Inmates must participate in all mandatory testing programs. Staff shall initiate an incident report for failure to follow an order for any inmate refusing one of the mandatory HIV testing programs.

(c) *Diagnostics.* (1) An inmate who refuses clinically indicated diagnostic procedures and evaluations for infectious and communicable diseases shall be subject to an incident report for failure to follow an order; involuntary testing subsequently may be performed in accordance with paragraph (c)(3) of this section.

(2) Any inmate who refuses clinically indicated diagnostic procedures and evaluations for infectious and commu-

28 CFR Ch. V (7-1-04 Edition)

nicable diseases shall be subject to isolation or quarantine from the general population until such time as he/she is assessed to be non-communicable or the attending physician determines the inmate poses no health threat if returned to the general population.

(3) If isolation is not practicable, an inmate who refuses to comply with or adhere to the diagnostic process or evaluation shall be involuntarily evaluated or tested.

§ 549.14 Training.

The HSA shall ensure that a qualified health care professional provides training, incorporating a question-and-answer session, about infectious diseases to all newly committed inmates, during Admission and Orientation (A&O). Additional training shall be provided at least yearly.

§ 549.15 Medical isolation and quarantining.

(a) The CD, in consultation with the HSA, shall ensure that inmates with infectious diseases which are transmitted through casual contact (e.g., tuberculosis, chicken pox, measles) are isolated from the general inmate population until such time as they are assessed or evaluated by a health care provider.

(b) Inmates shall remain in medical isolation unless their activities, housing, and/or duty assignments can be limited or environmental/engineering controls or personal protective equipment is available to eliminate the risk of transmitting the disease.

§ 549.16 Duty and housing restrictions.

(a) The CD shall assess any inmate with an infectious disease for appropriateness for duties and housing. Inmates demonstrating infectious diseases, which are transmitted through casual contact, shall be prohibited from employment in any area, until fully evaluated by a health care provider.

(b) Inmates may be limited in duty and housing assignments only if their disease could be transmitted despite the use of environmental/engineering controls or personal protective equipment, or when precautionary measures cannot be implemented or are not

available to prevent the transmission of the specific disease. The Warden, in consultation with the CD, may exclude inmates, on a case-by-case basis, from work assignments based upon the classification of the institution and the safety and good order of the institution.

(c) With the exception of the Bureau of Prisons rule set forth in subpart E of 28 CFR part 541, there shall be no special housing established for HIV-positive inmates.

§ 549.17 Confidentiality of information.

(a) Medical information relevant to chronic infectious diseases shall be limited to members of the institutional medical staff, institutional psychologist, and the Warden and case manager, as needed, to address issues regarding pre- and post-release management. Prior to an inmate's release, medical information may be shared with the United States Probation Officer in the respective area of intended release for the inmate and, if applicable, with the Community Corrections Manager and the Director of the Community Correctional Center (CCC) for purposes of post-release management and access to care. Any other release of information shall be in accordance with the Privacy Act of 1974.

(b) All parties, with whom confidential medical information regarding another individual is communicated, shall be advised not to share this information, by any means, with any other person. Medical information may be communicated among medical staff directly concerned with a patient's case in the course of their professional duties.

§ 549.18 Human immunodeficiency virus (HIV) and hepatitis B virus (HBV).

(a) During routine intake screening, all new commitments shall be interviewed to identify those who may be HIV- or HBV-infected. Medical personnel may request any inmates identified in this manner to submit to an HIV or HBV test. Failure to comply shall result in an incident report for failure to follow an order.

(b) A seropositive test result alone may not constitute grounds for dis-

ciplinary action. Disciplinary action may be considered when coupled with a secondary action that could lead to transmission of the virus, e.g. sharing razor blades.

(c) A sample of all newly incarcerated inmates committed to the Bureau of Prisons ordinarily shall be tested annually.

(d) Additionally, a random sample for HIV of all inmates in the Bureau of Prisons shall be conducted once yearly. Inmates tested in this random sample are not scheduled for follow-up routine retesting.

(e) After consultation with a Bureau of Prisons' health care provider, an inmate may request an HIV/HBV antibody test. Ordinarily, an inmate will not be allowed to test, as a volunteer, more frequently than once yearly.

(f) A physician may order an HIV/HBV antibody test if an inmate has chronic illnesses or symptoms suggestive of an HIV or HBV infection. Inmates who are pregnant, inmates receiving live vaccines or inmates being admitted to community hospitals, if required by the hospital, shall be tested. Inmates demonstrating sexual behavior which is promiscuous, assaultive, or predatory shall also be tested.

(g)(1) An inmate being considered for full-term release, parole, good conduct time release, furlough, or placement in a community-based program such as a Community Corrections Center (CCC) shall be tested for the HIV antibody. An inmate who has been tested within one year of this consideration ordinarily will not be required to submit to a repeat test prior to the lapse of a one-year period. An inmate who refuses to be tested shall be subject to an incident report for refusing an order and will ordinarily be denied participation in a community activity.

(2) A seropositive test result is not sole grounds for denying participation in a community activity. Test results ordinarily must be available prior to releasing an inmate for a furlough or placement in a community-based program. When an inmate requests an emergency furlough, and current (within one year) HIV and HBV antibody